Remarks:

Amendments to the claims:

Claims 1-48 are pending in this application.

Regarding the rejection of claims 1-4 and 41-43 under 35 USC 103(a) as being unpatentable over US Patent No. 4,683,132 to Ronning et al. (hereinafter "Ronning") in view of GB 2,039,740 to Martens et al. (hereinafter "Martens") and US Patent No. 4,512,933 to Harden:

Applicants respectfully traverse the rejection of the foregoing claims in view of Ronning, Martens and Harden.

Prior to discussing the merits of the Examiner's position with respect to "obviousness", the undersigned reminds the Examiner that the determination of obviousness under §103(a) requires consideration of the factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1 [148 USPQ 459] (1966): (1) the scope and content of the prior art; (2) the differences between the claims and the prior art; (3) the level of ordinary skill in the pertinent art; and (4) secondary considerations, if any, of nonobviousness. More recently in *KSR International Co. v. Teleflex Inc.*, 82 USPQ2d 1385 (U.S. 2007), the Supreme Court held that the analysis supporting a rejection under 35 U.S.C. 103 should be made explicit. The Court quoting *In re Kahn*, 441 F.3d 977, 988, 78 USPQ2d 1329, 1336 (Fed. Cir. 2006), stated that "'[R]ejections on obviousness cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.'" *KSR*, 550 U.S. at ___, 82 USPQ2d at 1396. Exemplary rationales that may support a conclusion of obviousness include:

(A) Combining prior art elements according to known methods to yield predictable results;

(B) Simple substitution of one known element for another to obtain predictable results;

(C) Use of known technique to improve similar devices (methods, or products) in the same way;

(D) Applying a known technique to a known device (method, or product) ready for improvement to yield predictable results;

(E) "Obvious to try" - choosing from a finite number of identified, predictable solutions, with a reasonable expectation of success;

(F) Known work in one field of endeavor may prompt variations of it for use in either the same field or a different one based on design incentives or other market forces if the variations are predictable to one of ordinary skill in the art;

(G) Some teaching, suggestion, or motivation in the prior art that would have led one of ordinary skill to modify the prior art reference or to combine prior art reference teachings to arrive at the claimed invention. See MPEP 2141 (III).

It must also be shown that one having ordinary skill in the art would reasonably have expected any proposed changes to a prior art reference would have been successful. *Amgen, Inc. v. Chugai Pharmaceutical Co.*, 927 F.2d 1200, 1207, 18 USPQ2d 1016, 1022 (Fed. Cir. 1991); In re O'Farrell, 853 F.2d 894, 903-04, 7 USPQ2d 1673, 1681 (Fed. Cir. 1988); *In re Clinton*, 527 F.2d 1226, 1228, 188 USPQ 365, 367 (CCPA 1976). "Both the suggestion and the expectation of success must be founded in the prior art, not in the applicant's disclosure." *In re Dow Chem. Co.*, 837 F.2d 469, 473, 5 USPQ2d 1529, 1531 (Fed. Cir. 1988).

A methodology for the analysis of obviousness was set out in *In re Kotzab*, 217 F.3d 1365, 1369-70, 55 USPQ2d 1313, 1316-17 (Fed. Cir. 2000) A critical step in analyzing the patentability of claims pursuant to section 103(a) is casting the mind back to the time of invention, to consider the thinking of one of ordinary skill in the art, guided only by the prior art references and the then-accepted wisdom in the field. Close adherence to this methodology is especially important in cases where the very ease with which the invention can be understood may prompt one "to fall victim to the insidious effect of a hindsight syndrome wherein that which

only the invention taught is used against its teacher."

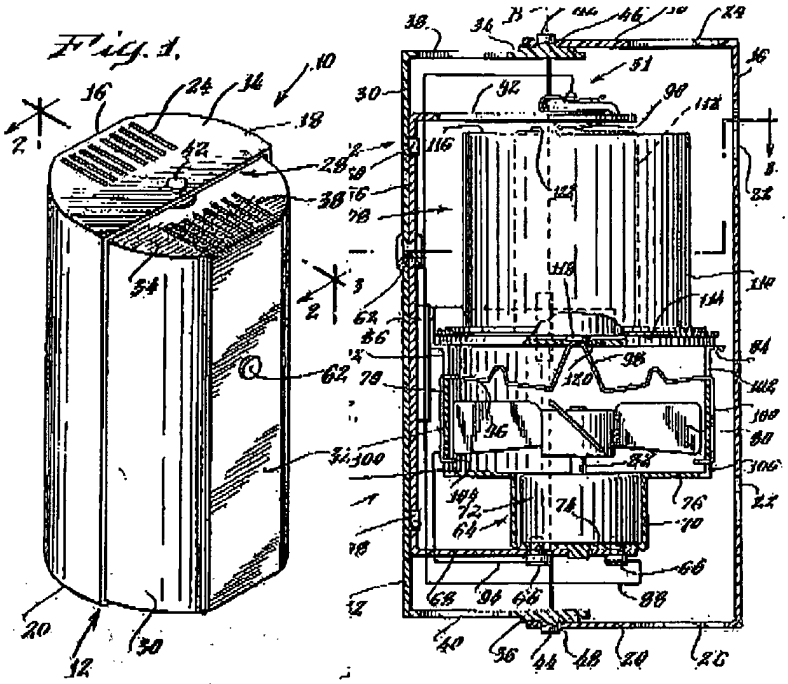
The Patent Office alleges that each and every feature of the foregoing claims would have been obvious to a skilled artisan, at the time of the invention, in view of the teachings of Ronning, Martens and Harden. Applicants respectfully disagree with the allegations by the Patent Office as set forth in the Office Action.

The Patent Office acknowledges that Ronning and Martens fail to teach or suggest a top that is adjacent to the base when the holder is in the closed state or that the longitudinal member is "extendible" relative to the top and the base as recited in claim 1. The Patent Office introduces Harden as allegedly remedying the deficiencies of Ronning and Martens. In the first paragraph on page 5 of the Office Action, the Patent Office specifically sets forth:

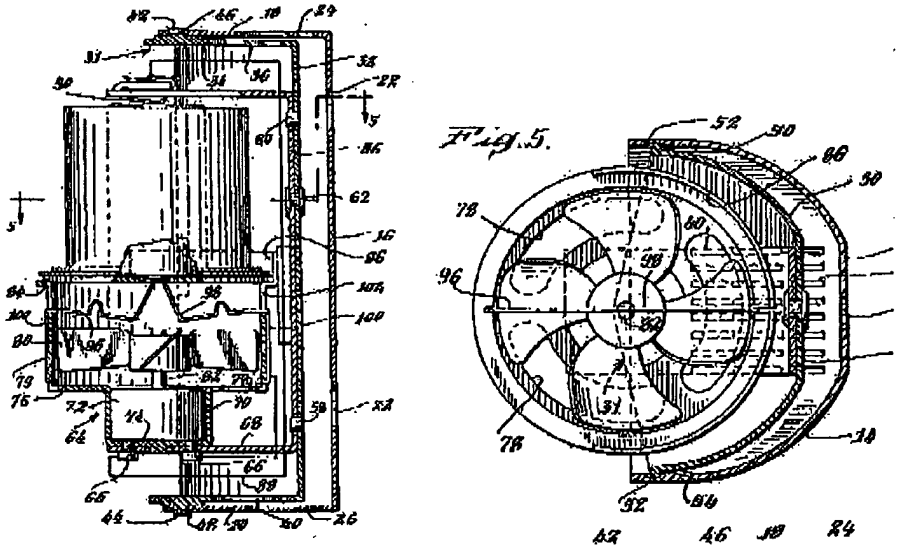
> The Ronning and Martens references do not specify that the top is adjacent to the base when the holder is in the closed state or that the longitudinal member is "extendible" relative to the top and the base, as recited in amended claim 1. However, Harden teaches an apparatus for dispensing volatile substances; this apparatus comprises a frame to house a detachable and mountable replaceable substrate cartridge containing a volatile substance. As to claim 1, Harden includes a teaching of the state of the art in which a hinge connects an inner and outer shell by pivoting motion on the axis between the closed and open positions. In the closed position, the inner shell and outer shells together define an enclosed space, while the open position exposes the components (i.e., room deodorizers, insecticides) of the apparatus (see column 1, lines 13-15 and lines 51-56).

However, the cited passages in Harden (i.e., col. 1, lines 13-15 and 51-56) are not referring to Harden's disclosure. Instead, the cited passages are referring to prior art, i.e., US 4,271,092 & 4,276,236 to Sullivan et al. (hereinafter "Sullivan") directed to a battery powered device. As the pictures below clearly illustrate the Sullivan reference does not

teach the presently claimed arrangement of movement between the presently claimed top and base when in open and in closed positions as recited in claim 1.



Closed Position



Open Position

Contrary to the Patent Office's allegations, in the closed position, Sullivan's inner shell is located opposite to Sullivan's outer shell as shown above. In contrast, Sullivan's inner shell is adjacent to Sullivan's outer shell when the device is in the open position. Thus, Sullivan fails to teach or suggest an alleged top that is adjacent to an alleged base when the device is in the closed position as alleged by the Patent Office.

In Harden's disclosure itself, there is no indication whatsoever about a holder being movable between an open position and a closed position. Instead the holder ("frame") remains fixed and only the blades can oscillate under the power provided by one or more piezoelectric elements. Moreover, nowhere in Harden is it disclosed that a top is adjacent to a base when the device is in a closed state or that a longitudinal member is "extendible" relative to the top and the base as alleged by the Patent Office.

Additionally, Applicants submit that the Patent Office's allegations set forth in the first paragraph on page 5 of the Office Action fail to identify and/or explain how Harden's disclosure remedies the deficiencies of Ronning and Martens (i.e., failing to specify that the longitudinal member is "extendible" relative to the top and the base). Nowhere in Harden is a longitudinal member that is extendible relative to the top and the base disclosed or even mentioned. Moreover, the hinge of Sullivan et al. (cited by the Patent Office) does not teach or suggest a longitudinal member that is extendible relative to the top and the base of Sullivan's device.

Further, the Office Action is completely silent with respect to the claimed feature "wherein the cellulosic substrate has a honeycomb configuration separating the top from the bottom of the base when the holder is in the open state" as recited in claim 1. The Patent Office fails to address this claimed feature because Ronning, Martens and Harden, taken singly or in combination, fail to teach or suggest such claimed feature.

Ronning, Martens and Harden, taken singly or in combination, do not teach or suggest a longitudinal member extendible from or between the top and the base, wherein the top is

adjacent to the base when the holder is in the closed state, wherein the cellulosic substrate has a honeycomb configuration separating the top from the bottom of the base when the holder is in the open state as required by claim 1.

Based on the foregoing, Applicants submit that a *prima facie* case of obviousness has not been established. Accordingly, reconsideration and withdrawal of the rejection of claims 1-4 and 41-43 under 35 USC 103 are respectfully requested.

Regarding the rejections under 35 USC 103(a) of (i) claims 19-21, 26-33, 39, 44 and 45 as allegedly being unpatentable over Ronning, Martens and Harden in view of US Patent No. 2003,790,081 to Thornton et al. (hereinafter "Thornton"), (ii) claims 22-24, 37, 38 and 40 as allegedly being unpatentable over Ronning, Martens and Harden in view of US Patent No. 4,523,870 to Spector; (iii) claims 25 and 34-36 as allegedly being unpatentable over Ronning, Martens and Harden in view of US Patent No. 6,569,387 to Furner et al. (hereinafter "Furner"), (iv) claims 46 and 47 as allegedly being unpatentable over Ronning, Martens and Harden in view of US Patent No. 4,063,664 to Meetze, Jr.; and (v) claim 48 as allegedly being unpatentable over Ronning and Martens in view of US Patent No. 5,899,382 to Hayes et al. (hereinafter "Hayes"): Applicants respectfully traverse the rejection of the foregoing claims in view of Ronning, Martens, Harden, Thornton, Spector, Furner, Meetze, Jr. and Hayes.

The Patent Office alleges that the features of the foregoing claims would have been obvious to a skilled artisan, at the time of the invention, in view of the teachings of Ronning, Martens, Harden, Thornton, Spector, Furner, Meetze, Jr. and Hayes. Applicants respectfully disagree with the allegations by the Patent Office as set forth in the Office Action.

As discussed above with respect to the rejection of independent claim 1, Ronning, Martens and Harden, taken singly or in combination, fail to teach or suggest a longitudinal member extendible from or between the top and the base, wherein the top is

adjacent to the base when the holder is in the closed state, wherein the cellulosic substrate has a honeycomb configuration separating the top from the bottom of the base when the holder is in the open state.

Thornton, Spector, Furner, Meetze, Jr. and Hayes fail to remedy the deficiencies of Ronning, Martens and Harden because those references also fail to teach or suggest the claimed features specifically defined in claim 1.

According, Ronning, Martens, Harden, Thornton, Spector, Furner, Meetze, Jr. and Hayes, taken singly or in combination, fail to teach or suggest that the top is adjacent to the base when the holder is in the closed state, wherein the cellulosic substrate is attachable to the top and the base of the holder, wherein the cellulosic substrate has a honeycomb configuration separating the top from the bottom of the base when the holder is in the open state as required by claim 1, from which claims 5-40 and 44-48 depend

Because the features of independent claim 1 are not taught or suggested by Ronning, Martens, Harden, Thornton, Spector, Furner, Meetze, Jr. and Hayes, taken singly or in combination, these references would not have rendered the features of claim 1 and its dependent claims obvious to one of ordinary skill in the art.

In view of the foregoing, reconsideration and withdrawal of these rejections are respectfully requested.

Regarding the provisional rejection of claims 1 and 5-18 under the doctrine of obviousness-type double patent as being unpatentable over claims 1, 6-11, 41, 42 and 49 of copending U.S. Application No. 10/578,282:

Applicants respectfully retain their traversal of the Examiner's "double patenting" rejection of the foregoing claims in view of copending U.S. Application No. 10/578,282 (hereinafter "the 282 application") which is commonly assigned with the present application.

Claims 1, 6-11, 41, 42 and 49 of the 282 application were recently canceled by an Amendment to the 282 application filed 13.Jan.2011. In view of the cancelation of those claims, this provisional rejection is moot.

In view of the foregoing, reconsideration and withdrawal of this provisional rejection are respectfully requested.

The early issuance of a *Notice of Allowability* is solicited.

Should the Examiner in charge of this application believe that telephonic communication with the undersigned would meaningfully advance the prosecution of this application, they are invited to call the undersigned at their earliest convenience.

CONDITIONAL AUTHORIZATION FOR FEES

Should any further fee be required by the Commissioner in order to permit the timely entry of this paper, the Commissioner is authorized to charge any such fee to Deposit Account No. 14-1263.

PETITION FOR A TWO-MONTH EXTENSION OF TIME

The applicants respectfully petition for a two-month extension of time in order to permit for the timely entry of this response. The Commissioner is hereby authorized to charge the fee to Deposit Account No. 14-1263 with respect to this petition.

Respectfully Submitted;

Andrew N. Parfomak, Esq. 09. March. 2011
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CERTIFICATION OF TELEFAX TRANSMISSION:

I hereby certify that this paper and any indicated enclosures thereto is being telefax transmitted to the US Patent and Trademark Office to telefax number: 571-273-8300 on the date shown below:

Allyson Ross 09, March. 2011
Date

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